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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/786,738 | 06/29/2001 | Leopold Bomer | 12758-006001 | 4198 |
| 26161 | 7590 | 08/22/2005 | EXAMINER | |
| FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022 | | | PHU, PHUONG M | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2631 | |

DATE MAILED: 08/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/786,738

Applicant(s)

BOMER ET AL.

Examiner

Phuong Phu

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (see ATTACHMENT).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: ATTACHMENT.

**PHUONG PHU
PRIMARY EXAMINER**

Phungphu 8/18/05
Phuong Phu
Primary Examiner
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ATTACHMENT

This ATTACHMENT is responsive to the Applicant's Response filed on 8/4/05.

Applicant's arguments filed on 8/14/05 have been fully considered but they are not persuasive. The applicant mainly argues that (i) With respect to claims 1 and 10-12, Maskara neither discloses or suggests that its method/system synchronizes a base station to a mobile station or that a concatenated sequence is for use in synchronization; (ii) with respect to claims 1 and 10-12, it would not have been obvious to implement, in Maskara, the lengths of two signal sequence elements of a concatenated sequence to be equal; (iii) with respect to claim 2, it would not have been obvious to implement, in Maskara, a concatenated sequence to have a length= 256.

Regarding to part (i), in response to applicant's arguments, with respect to claims 1, 10 and 11, the recitations "for synchronizing a base station to a mobile station" (of claim 1), "to synchronize the base station and a mobile station" (of claim 10), and "for synchronizing a base station and the mobile station" (of claim 11) have not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). With respect to claim 12, the applicant's arguments have been considered; however, the claim does not recite any limitations describing about synchronizing a base station to a mobile station or a synchronization for use.

Regarding to part (ii), the examiner respectfully disagrees. Maskara does not disclose the lengths of two signal sequence elements of a concatenated sequence being equal. However, Maskara teaching is to be able to reduce number of tapped delay lines (TDL) which are needed in a spread spectrum receiving system by utilizing a concatenated sequence for spreading signals to be transmitted in spread spectrum transmitting system, in comparison with the case of utilizing a non-concatenated sequence (see pages 342-344, 348-349, and TABLE 1) in such a way that in the case of utilizing a concatenated sequence of length $L = L_i \times L_o$, (L_i, L_o : nonzero, positive integers), the number of tapped delay lines $= 2L_i + L_o$ are needed (see page 349), in comparison with the case of utilizing a non-concatenated sequence of the same length, the number of tapped delay lines $= L_i \times L_o$ are needed. He further teaches that the value of L_i and L_o are chosen to be nonzero, positive integers and its product $L_i \times L_o$ to be equal to L (see page 344). Therefore, for an application of Maskara (e.g. for $L=25$, which has only one product of 5×5), it would have been obvious for one skilled in the art, at the time the invention was made, to implement Maskara in such a way that a concatenated sequence of length $L = L_i \times L_o$ is utilized, wherein $L_i = L_o = 5$, so that the reduced number of tapped delay lines $= 2L_i + L_o = 2(5) + 5 = 15$ are needed in comparison with the number of tapped delay lines $= L_i \times L_o = 25$ are needed for the case of utilizing a non-concatenated sequence of the same length.

Regarding to part (iii), the examiner also disagrees. Maskara does not disclose a concatenated sequence to have a length $L = 256$. However, he teaches that a length in range of hundreds of a concatenated sequence can be utilized, e.g., $L=152$ (see TABLE 1), and a length in range of hundreds of a tapped delay lines (TDL) is available, e.g., the length of 152 (see TABLE 1). Therefore, in an application of Maskara for a particular system requirement, as being

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explained in part (ii), it would have been obvious for ones skilled in the art, at the time the invention was made, to implement Maskara in such a way that it can utilize a concatenated sequence of a length L equal to 256, or equal to a particular value in range of hundred (e.g., $L = L_{ix}L_o = 152 \times 2 = 304$) in order to meet the system requirement.

Based on the above rationale, it is believed that the limitations of claims are still met and therefore, the rejections are still maintained.

09/18/05

phuongphu

PHUONG PHU
PRIMARY EXAMINER